IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

In Re: Larry Klayman

Case No.: 3:20-mc-00043-B

LARRY KLAYMAN'S RESPONSE TO ORDER OF JUNE 15, 2020

Larry Klayman, a member of this Court for many years, and continuously a member in good standing of The Florida Bar and District of Columbia Bar for 42 years and 39 years respectively, responds to the order of the Honorable Jane Boyle, with full reservation of all rights to supplement this response and to retain counsel if necessary.

A previously set forth in the Interim Response to Order of June 15, 2020, the subject opinion of the District of Columbia Court of Appeals ("DC Court") is not final and is currently of no force and effect, as a Petition for Rehearing ("Petition") was filed on Thursday, June 25, 2020 *See* Attachment 1. Importantly, attached as Exhibit 1 to the Petition, which is incorporated herein by reference, is an opinion by well-respected (but regrettably now deceased) legal ethics expert Professor Ronald Rotunda which makes the following sound findings:

First, the bar disciplinary proceeding in which Mr. Klayman was alleged to have engaged in a conflict of interest was so old as to deny him due process of law, as evidence was lost and witness memories faded or were non-existent. Indeed, this prejudicial delay was in part recognized in the findings of the DC Court. Begun approximately twelve years ago with a complaint filed by Tom Fitton, a non-lawyer who seized control of Judicial Watch after Mr. Klayman left to run for the U.S. Senate in Florida, and which proceeding is now an unprecedented twelve (12) years old, the District of Columbia Bar Disciplinary Counsel sat on it

for six years, before resurrecting it after pressure was applied by Fitton and Judicial Watch, who had been sued by Mr. Klayman for defamation. Judicial Watch ultimately had a jury verdict and judgment entered against it, as shown by Exhibit 3 to the Petition for Rehearing. Clearly, the State Bar of Texas disciplinary system would not countenance this delay and prejudice to a respondent under these circumstances, as it also true of nearly all other state bars and the courts which administer to disciplinary matters. These authorities have generally dismissed these types of significantly old proceedings, especially when they have the effect of denying due process to respondents.

For instance, *In Florida Bar v. Rubin*, 362 So.2d 12 (Fla. Sup. Ct. l 1978) (per curiam), the Florida Supreme Court threw out charges because the Bar's delay was in violation of The Florida Bar Integration Rules. The Court said:

> Whatever other objects the rule may seek to achieve, it obviously contemplates that the Bar should not be free to withhold a referee 's report which it finds Too lenient until additional cases can be developed against the affected attorney, in an effort to justify the more severe discipline which might be warranted by cumulative misconduct. The Bar's violation of the prompt filing requirement in this case, to allow a second grievance proceeding against Rubin to mature, is directly antithetical to the spirit and intent of the rule. In addition, it has inflicted upon Rubin the 'agonizing ordeal' of having to live under a cloud of uncertainties, suspicions, and accusations for a period in excess of that which the rules were designed to tolerate.

There are numerous other cases and jurisdictions that have found that bar disciplinary proceedings should be subject to the principle of laches. They include *The Florida Bar v. Walter*, 784 So.2d 1085 (Fla. Sup. Ct. 2001); *In re Grigsby*, 815 N.W.2d 836 (Minn. 2012); *In Matter of Joseph*, 60 V.I. 540, 558- 59 (V.I. Feb. 11, 2014); *Hayes v. Alabama State Bar*; 719 So 2d 787, 791 (Ala. 1998). Furthermore, the Indiana Bar expressly limits the time to complete a disciplinary investigation in its own rules: Limitation on time to complete investigation. Unless the Supreme Court permits additional time, any investigation into a grievance shall be completed

and action on the grievance shall be taken within twelve (12) months from the date the grievance is received.... If the Disciplinary Commission does not file a Disciplinary Complaint within this time, the grievance shall be deemed dismissed." *See* Ind. R. Att'y Adm. & Discip. 23.

Second, as also found by Professor Rotunda, Mr. Klayman in good faith only stepped in as a last resort to represent clients, donors and persons who had been harmed by Judicial Watch after he left the organization, which public interest non-profit government ethics organization he founded and ran for ten (10) years. Mr. Klayman did this out of necessity and because he thought he was doing the right thing at the time. Importantly, Mr. Klayman assisted these persons, who could not afford to hire counsel, pro bono, at his time and expense. This was even recognized by the Honorable Royce Lamberth, who coincidentally hails from San Antonio, Texas an a graduate of the University of Texas Law School, and is now a distinguished jurist in the U.S. District Court for the District of Columbia, as set forth in the DC Court's opinion, now under review. Professor Rotunda found:

> I have reviewed the facts of the above referenced bar complaint against Larry Klayman. It is my expert opinion that in the present situation Mr. Klayman has not committed any offense that merits discipline. In fact, he, to the best of his ability, simply pursued an obligation that he knew that he owed to Sandra Cobas, Peter Paul, and Louise Benson.
>
> ….
>
> Mr. Klayman, whose organization, Judicial Watch, was once engaged as attorneys for Paul (it never was engaged for Benson or Cobas), reasonably believed he had an ethical obligation to represent them, and chose to uphold his duty to these clients. District of Columbia Rule of Professional Conduct 1.3 states that, "(a) A lawyer shall represent a client zealously and diligently within the bounds of the law." Further, Rule 1.3(a) (comment 1) provides guidance on this issue and the duties of an attorney. "This duty requires the lawyer to pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and to take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor."
>
> ….

> Faced with the dilemma of either representing Cobra, Paul, and Benson, or allowing them to lose their legal rights, Mr. Klayman sided with the rights of the clients, in accordance with Rule 1.3, and thus, justifiably, chose to represent them. Judicial Watch attempted, and succeeded, at disqualifying Mr. Klayman from the lawsuits because it knew no one else would be able to represent Cobas, Paul, and Benson, and that Judicial Watch would escape liability for the wrongs that they had caused.
>
> ….
>
> ….it is my expert opinion that this bar complaint should not be pursued. Mr. Klayman, faced with what Judge Lamberth concluded was an "ambiguous" rule, understood that Mr. Klayman did not take on a case for personal profit but simply to protect the rights of those who could otherwise not pursue justice in the court system. Further justifying dismissal of this bar complaint is the unreasonably delay by the Office of Bar Counsel in bringing these allegations against Mr. Klayman. Mr. Klayman's defense of these alleged ethical violations has been severely prejudiced by the length of time that has passed since the events leading up to the bar complaint took place. In sum, Mr. Klayman should not be disciplined. He did what he believed he had an ethical obligation to do by protecting his clients, at his expense. Exhibit 1 to Petition

Third and importantly, Professor Rotunda as well as Judge Lamberth also opined in testimony before the Ad Hoc Hearing Committee of the Board of Responsibility of the District of Columbia Bar, that Mr. Klayman's conduct did not warrant bar discipline. Judge Lamberth testified that this is why he did not refer it to Bar Disciplinary Counsel for further action.

Professor Rotunda's opinion and Judge Lamberth's decision to not refer the matter to DC Bar Disciplinary Counsel are profound and Mr. Klayman respectfully requests that this honorable Court review them carefully in its their entirety. Importantly, the DC Court, while some of its findings are under review, also importantly found that Mr. Klayman did not act dishonestly.

All of this analysis notwithstanding, Mr. Klayman, in all of his years of practice before the U.S. District Court for the Northern District of Texas, despite being counsel in several controversial high profile cases, has never been sanctioned by any judge of this tribunal. That is

why Mr. Klayman was somewhat surprised when the order of June 15, 2020 was issued before any applicable reporting requirement of his 90 day suspension was required to clients who could be affected with cases in the District of Columbia.

In any event, Mr. Klayman respectfully requests that this honorable Court allow the review process to run its course in the District of Columbia, and if this Court decides to proceed further in considering the imposition of reciprocal discipline in the interim, that he be provided time to retain counsel as well as be accorded full due process rights, including but not limited to an evidentiary hearing on the merits.

However, Mr. Klayman respectfully requests that this honorable Court exercise its discretion and decline to impose reciprocal discipline under these extraordinary circumstances, as set forth and found by Professor Rotunda.

Mr. Klayman values highly his membership before the Northern District of Texas and respects the authority of this Court to administer to the lawyers who practice before it.

Dated: June 29, 2020

Respectfully submitted,
/s/ Larry Klayman
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ATTACHMENT 1

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

In the Matter of:

LARRY E. KLAYMAN, ESQ.

Respondent.

A Member of the Bar of the District of Columbia Court of Appeals (Bar Registration No. 334581)

No. 18-BG-0100
Board Docket No. 13-BD-84
BDN: 48-08

RESPONDENT LARRY KLAYMAN'S PETITION FOR REHEARING OF COURT'S ORDER OF JUNE 11, 2020

Dated: June 25, 2020

Respectfully submitted,

/s/ Larry Klayman

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Respondent Pro Se and Of Record

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RESPONDENT LARRY KLAYMAN'S PETITION FOR REHEARING OF COURT'S ORDER OF JUNE 11, 2020

Respondent, Larry Klayman, hereby respectfully moves for rehearing pursuant to Rule 40 of the District of Columbia Court of Appeals, and he does so in his capacity as a *pro se* litigant and counsel of record. Respondent reserves his right to move for en banc review pursuant to Rule 35 should the original panel not grant the requested relief. The purpose of this petition for rehearing is to correct certain material errors under the extraordinary situation and circumstances of this case.

I. INTRODUCTION.

Mr. Larry Klayman ("Respondent" or "Mr. Klayman") has continuously been a member in good standing of the District of Columbia Bar (the "Bar") since his induction before this honorable Court on December 22, 1980, nearly forty (40) years ago. He has also continuously been a member in good standing of The Florida Bar since December 7, 1977, for nearly forty-three (43) years. *See* Respondent's Hearing Exhibits 2, 3, 26 (hereinafter "R's. Ex.") Respondent is also a former trial attorney in the Antitrust Division of the U.S. Department of Justice, where he was on the trial team that broke up the AT&T monopoly, as well the founder and former Chairman of Judicial Watch, a not-for-profit organization that, when Mr. Klayman ran it, sought to promote ethics in government and the legal profession as a whole. *See* Trial Transcript (hereinafter "Trial Tr."), Jan. 27, 2016 at 324:14-15; *see* Respondent's Proposed Findings of Facts (hereafter "RPFOF") at ¶¶ 84, 88; *see also* Stipulation of Facts (hereinafter "SOF") at 2. Respondent, following his U.S. Senate candidacy, also founded Freedom Watch, where he is currently chairman and general counsel.

Respondent served as chairman and general counsel since Judicial Watch's inception in July of 1994 and remained in that capacity until September of 2003, when he voluntarily left

Judicial Watch, pursuant to the terms of his severance agreement, to run for the U.S. Senate in Florida. Trial Tr., Jan. 27, 2016 at 329:8-13 at 89.

While campaigning in Florida for his U.S. Senate run, Respondent discovered that the current president of Judicial Watch, Tom Fitton (hereinafter "Fitton"), along with the other directors, had fraudulently misrepresented to donors that Judicial Watch was actively pursuing the purchase of a building with donor funds. RPFOF at ¶¶ 52, 84, SOF at 15. Respondent also discovered that Judicial Watch, under Fitton's direction, had misappropriated donor funds, had abandoned clients such as Peter Paul who in large part wound up doing ten (10) years in prison as a result, and had vindictively fired and harassed most of the executive staff that Respondent had hired. RPFOF at ¶ 99. Fitton, a non-lawyer, who Mr. Klayman near the time he was leaving had also learned, falsely represented that he had graduated from George Washington University when Respondent had hired him as his assistant, apparently feared that persons loyal to Respondent would somehow challenge or undermine his taking control of Judicial Watch after Respondent left. With regard to the misappropriation of donor funds to buy a building, to this day Judicial Watch has not bought a building but instead converted the donors' funds, many of whom have since died (the average age of a donor is about 74 years old), as over seventeen (17) years has elapsed. *See* www.judicialwatch.org and Judicial Watch's 990 tax return for 2019.

In light of this egregious misconduct after Respondent left, particularly by Fitton, a non-lawyer, and Judicial Watch's Director of Litigation, Paul Orfanedes, out of necessity and out of conscience, as testified to by the well-respected and distinguished legal ethics expert Professor Ronald Rotunda, when Mrs. Benson, Mr. Paul and Mr. Cobas could not afford legal counsel, Respondent assisted these persons harmed by Fitton, Orfanedes and the new director Christopher Farrell of Judicial Watch. In so doing, Respondent did not intentionally violate any of the

District of Columbia Rules of Professional Conduct of the Bar, nor intentionally violate the ethics rules of The Florida Bar. Outlining Respondent's ethical intentions, Professor Rotunda found: "[f]urther establishing Mr. Klayman's ethical intentions is the fact that he represented these aggrieved individuals pro bono and paid court and other costs out of his own pocket simply to protect the rights of Cobas, Paul, and Benson". *See* Exhibit 1 to this Petition, which is the same as R's. Ex. 5 (Expert Rotunda's Opinion Letter of June 3, 2014) at 3.

It is not that Respondent lacks an appreciation or respect for the findings of this honorable Court or his ethical obligations under the District of Columbia Code of Professional Conduct which he takes seriously; rather, at the time after he left Judicial Watch, Respondent thought he was doing the right thing in each instance. Specifically, Professor Rotunda, based on the facts of why and how Respondent came to assist three persons, Mrs. Benson, Mr. Paul, and Mrs. Cobas, gave his expert opinion in a letter which was subsequently entered into evidence, along with his compelling sworn testimony at Trial Tr., Jan. 27, 2016 at 496:18-607:12 at the hearing before the Ad Hoc Hearing Committee (hereinafter "AHHC"), the following:

> I have reviewed the facts of the above referenced bar complaint against Larry Klayman. It is my expert opinion that in the present situation Mr. Klayman has not committed any offense that merits discipline. In fact, he, to the best of his ability, simply pursued an obligation that he knew that he owed to Sandra Cobas, Peter Paul and Louis Benson.

….

> In applying these principles, it is reasonable and understandable that Mr. Klayman believed that he had an ethical obligation, in accordance with perhaps the most important principle of this profession, to zealously and diligently represent his clients. More importantly, comment 7 observes that 'neglect of client matters is a serious violation of the obligation of diligence.' Nor there is no credible claim that he used any confidence of Judicial Watch against Judicial Watch."
>
> (In fact, the specification of charges did not allege any violation of confidences).

….

> Faced with the dilemma of either representing Cobas, Paul and Benson, or allowing them to lose their legal rights, Mr. Klayman sided with the rights of the clients, in accordance with Rule 1.3, and thus, justifiably, chose to represent them. Judicial Watch attempted, and succeeded, at disqualifying Mr. Klayman (in the Paul case) because it knew no one else would be able to represent Cobas, Paul, and Benson, and that Judicial Watch would escape liability for the wrongs that they had caused . . . [t]he situation involving these particular clients provided a unique set of circumstances, one that the D.C. Rules of Professional Conduct do not expressly take into account. Given this unprecedented situation, Mr. Klayman, out of necessity, attempted to correct the wrongs caused by Judicial Watch, so that he would not violate D.C. RPC Rule 1.3. Further establishing Mr. Klayman's ethical intentions is the fact that he represented these aggrieved individuals pro bono and paid court and other costs out of his own pocket simply to protect the rights of Cobas, Paul and Benson.

See Exhibit 1 to this Petition, which is the same as R's. Ex. 5 (Expert Rotunda's Opinion Letter of June 3, 2014) at 1, 2, 3 respectively.

Notably, Professor Rotunda issued his letter opinion and testified without requesting any remuneration.

The purpose of this petition for rehearing is not to relitigate the issues that led to this honorable Court's Order of June 11, 2020, but to correct two (2) material errors which are not supported by clear and convincing evidence, contained therein and on the record, as well as to bring to the Court's attention that Respondent has already fulfilled the requirement that he take a course in conflicts of interests, something which his prior counsel had proffered would occur but which they neglected to confirm with a supplemental filing to their brief, or make mention of at oral argument. Thus, Respondent respectfully requests that a modified order reflect this fact as well. *See* Exhibit 2 – Proof of Mr. Klayman's taking of a conflict of interest and several other ethics courses.

First, as testified to by Professor Rotunda and Mr. Klayman himself, Respondent did not intentionally violate Rule 1.9 and he did not seek to assist Mrs. Benson, Mr. Paul or Mrs. Cobas

out of vindictiveness toward Judicial Watch. Indeed, as set forth in the record, Respondent previously had to sue Judicial Watch over Fitton's and the organization's vindictiveness toward Mr. Klayman, which continues to this day. Judicial Watch lost a defamation case brought by Respondent where the jury awarded both compensatory and punitive damages. *See* RPFOF at ¶¶ 62, 63; *see also* Trial Tr., Jan. 26, 2016 at 96:2-10. A copy of the jury verdict and court judgment finding Judicial Watch liable for maliciously defaming Mr. Klayman is attached as Exhibit 3 hereto; *see also* R's. Ex. 22, 23. And, there is no credible, much more clear and convincing evidence in the record, showing that Respondent intentionally violated Rule 1.9, as he thought he had an obligation to assist Mrs. Benson, Mr. Paul and Mrs. Cobas when they could not afford counsel to seek redress for the wrongs caused by Fitton and the other directors of Judicial Watch. Quite apart what he felt was his obligation as the founder of an ethics organization, Judicial Watch, to protect Mrs. Benson, Mr. Paul and Mrs. Cobas, Mr. Klayman also felt at the time that he had a right to protect his own interests, as Mr. Paul, having been abandoned by non-lawyer Fitton and Judicial Watch, had threatened legal action after Mr. Klayman voluntarily left Judicial Watch to run for the U.S. Senate and did not understand that Respondent had played no role in the abandonment.

As a result, with complete respect for this Court and the Bar in general, of which Respondent has been a proud member of for almost forty-one (41) years, Respondent seeks a rehearing to remove the following findings materially in error from its June 11, 2020 Order, as they will cause damage to his reputation and will undoubtedly be used by adversaries, including but not limited to Fitton and Judicial Watch, and others, against him and his current and future clients. In this regard, Respondent respectfully requests that this honorable Court take judicial notice of ongoing litigation which seeks to remedy more vindictive defamation by Fitton,

calculated to harm Mr. Klayman, whereby convicted felon Roger Stone revealed that Fitton has been publishing that Respondent was ousted from Judicial Watch because of a sexual harassment complaint. When put under oath, Fitton had to finally admit that this was not true. *See* Exhibit 4 – Attached excerpt of Fitton testimony in *Klayman v. Fitton*, 1:19-cv-20544 (S.D. Fla). Thus, the opposite is true; Fitton, the non-lawyer who filed the bar complaint over twelve and one-half (12 ½) years ago on January 23, 2008, is the one who has been vindictive toward Mr. Klayman. As a result, Respondent has had to seek legal redress to protect himself and his family for a concerted course of conduct that continues to this day.

Specially, these findings of this honorable Court that must therefore respectfully be modified or withdrawn occur at page 12 of the June 11, 2020 Order:

> "His (Mr. Klayman's) misconduct was not isolated and, it appears, he acted vindictively and 'motivated by animus toward Judicial Watch' (with which he had developed an acrimonious relationship.) We agree with the Board and the Hearing Committee that his misconduct was intentional rather than inadvertent or innocent."

June 11, 2020 Order at 12.

II. LEGAL STANDARDS OF REVIEW.

As ruled by this honorable Court, "[w]e start with a premise, bottomed on necessity, that courts generally take care to avoid inadvertent or mistaken orders. Nonetheless, some instances will arise." *Newton v. United States*, 613 A.2d 332, 334 (D.C. 1992). When the need arises, "we reiterate and rely upon the rationale that a trial court has 'inherent power to correct its record so as to reflect the truth and insure that justice be served.'" *Id.*; *see also Rich v. United States*, 357 A.2d 421, 423 (D.C. 1976) ("…the court's actions were justified based on its inherent power to correct its record so as to reflect the truth and insure that justice be served.").

III. DISCUSSION.

A. The Findings of an Intentional and Vindictive Violation of Rule 1.9 Require Either Withdrawal or Modification, As They Are in Error.

Underscoring that the findings that Respondent acted intentionally and vindictively require withdrawal or modification at a minimum, in the interests of accuracy and fundamental fairness, is the Court's own June 11, 2020 Order which is inherently contradictory, suggesting that the intentional and vindictive findings were simply borrowed, without delving into the record, from the original recommendation of the AHHC and the Board, which likely also adopted these "findings" without much, if any, scrutiny of the record.

For instance, with regard to the only time that a court or any judicial body ruled that Mr. Klayman had a conflict of interest, as occurred for the first time in the case concerning Mr. Paul before Judge Royce C. Lamberth, this honorable Court found in its June 11, 2020 Order:

> But the Board primarily followed this court's (Judge Lamberth's) lead in considering the views of the judge who presided over the litigation in which the disqualification motion was filed. *See* In re White, 11 A.3rd 1226, 1232 (D.C. 2011). The Board found it "extra-significan(t)" that Judge Lamberth, though he granted the motion to disqualify Mr. Klayman, found a 'legitimate debate about (Mr. Klayman's) conduct' and further found that Paul was a needy client who otherwise could not have afforded legal services. In light of the 'extraordinary situation' of Judge Lamberth's 'supportive testimony' to the Hearing Committee, the Board was unable to conclude that Mr. Klayman's 'behavior sufficiently tainted the judicial process . . .'

June 11, 2020 Order at 8-9. Importantly, the disqualification ruling of Judge Lamberth was the first confirmed indication of a conflict of interest and at that point Respondent ceased representation of not just Mr. Paul, but also ceased any legal efforts on behalf of the other two victims of Fitton and Judicial Watch, Mrs. Cobas and Mrs. Benson.

Thus, by this Court's own reasoning, Respondent did not act intentionally and certainly not vindictively. In this regard, Respondent respectfully requests that this honorable Court thoroughly review the hearing testimony and exhibits pertinent to not only ethics expert Professor Rotunda, but also Judge Lamberth and Respondent himself, found at Trial Transcript pages 496 to 607 for Professor Rotunda, pages 656 to 661 for Judge Lamberth, and pages 318 to 420 for Mr. Klayman.

B. This Honorable Court Should Clarify What, If Any, Action Out of Necessity Was Permissible Under the Admittedly "Extraordinary Situation" Thrust Upon Respondent with Regard to Mrs. Benson, Mr. Paul and Mrs. Cobas.

As set forth in Subsection A., this honorable Court, following Judge Lamberth's analysis and lead, ruled that the situation presented to Mr. Klayman over the misconduct of Fitton and the other Judicial Watch directors an "extraordinary situation." Legal ethics expert Rotunda came to the same conclusion in his letter opinion of June 2, 2014, and as reflected in his sworn hearing testimony, both of which are in evidence. Indeed, Professor Rotunda, one of the top legal experts in professional ethics in the nation at the time (regrettably he since tragically died), observed: "[t]he situation involving these particular clients (Paul, Benson and Cobas) provided a unique set of circumstances, one that the D.C. Rules of Professional Conduct do not expressly take into account. Given this unprecedented situation, Mr. Klayman, out of necessity, attempted to correct the wrongs caused by Judicial Watch . . ." Exhibit 1 at 3.

In fact, Respondent had suggested to Bar Disciplinary Counsel that both parties obtain an advisory opinion from the Bar before proceeding further with the complaint first filed by Fitton on January 23, 2008, over twelve and a half (12 ½) years ago from today, and years after the alleged ethical infractions, in apparent retaliation for Respondent pursing litigation which ultimately led to a jury verdict and judgment against Judicial Watch for malicious defamation.

See R's. Ex. 22, 23 attached hereto as Exhibit 3. Bar Disciplinary Counsel refused to follow this suggestion.

It thus would seem prudent for this honorable Court to provide guidance to members of the Bar, particularly those who are practicing public interest law at non-profit ethics organizations such as Judicial Watch, where donor monies are being misused and misappropriated, to have direction from this esteemed judicial body over how to proceed under these sorts of "extraordinary situations and circumstances," where the former head of an organization founded to promote ethics finds himself between the proverbial rock and the hard place and where he or she feels she owes an ethical duty to former clients, donors and employees.

Moreover, and again as Professor Rotunda pointed out, most jurisdictions would never have allowed a matter such as this to proceed after a delay by Bar Disciplinary Counsel for over six (6) years, as the equitable doctrine of laches should otherwise apply. It is not enough that lawyer Dugan's memory, however flawed, faded into near oblivion, but during this time period, evidence is not just forgotten but also lost and misplaced. The Court should thus respectfully address what is a continuing issue with Bar Disciplinary Counsel, where its counsel frequently pull old complaints out of their hat for whatever reason, sometimes ironically out of their own political vindictiveness in this polarized age of Donald Trump, years after the alleged violations occurred. This Bar should follow the precedent of most other state bars in not allowing this abuse to continue and the Court should speak clearly about this "extraordinary situation and circumstances" to provide oversight and guidance to Bar Disciplinary Counsel and its prosecutors. Indeed, until recently, the Bar's website, which was modified for some unexplained reason under its new leadership, pledged:

> In this capacity, the Office of Disciplinary Counsel has a dual function: to protect the public and the courts from unethical conduct by members of the D.C. Bar and to protect members of the D.C. Bar from unfounded complaints.

Thus, both complainants and members of this distinguished Bar have a recognized right to be treated fairly and impartially, without regard to a member's politics or other characteristics, for lack of better words.

IV. CONCLUSION.

For all of these compelling reasons, in this extraordinary situation and circumstances, this honorable Court must respectfully withdraw or modify the materially erroneous findings with regard to the alleged intentional and vindictive motives of Respondent, which are inaccurate and which conflict with the Court's and Judge Lamberth's own reasoning as set forth clearly in this esteemed judicial body's Order of June 11, 2020. This is respectfully required as a matter of due process and even more importantly, fundamental fairness, as the June 11, 2020 Order, if left uncorrected, will unduly be used by adversaries, including but not limited to Fitton and Judicial Watch, and an "unfriendly"[1] Bar Disciplinary Counsel, to harm Mr. Klayman and his clients in other future legal and potentially other ethics proceedings.

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[1] Under the new Bar Disciplinary Counsel leadership following the retirement of Wallace Shipp, the "approach" towards Respondent, Mr. Klayman, changed markedly. During negotiated discipline in this matter under Wallace Shipp, for instance, the Office of Bar Disciplinary Counsel not only proposed but also agreed only to a public censure. When that was not accepted by the AHHC, it proposed a three (3) month suspension with a two (2) month probation. However, under the new leadership following Mr. Shipp's retirement, the new Bar Disciplinary Counsel has apparently delegated authority to Deputy Bar Counsel Julia Porter, herself under internal ethics review concerning her conduct in a disciplinary proceeding, *In re John Symkowicz*, 14-BG-0884, involving John and J.P. Szymkowicz (which lasted over thirteen (13) years), and Office of Bar Disciplinary Counsel changed its tune. It then, going against the Report and Recommendation of the Board of Professional Responsibility, wanted a reinstatement provision to be imposed on Mr. Klayman, which would have effectively removed him from the practice of law, given that he is almost sixty-nine (69) years old. The Office of Bar Disciplinary Counsel's antipathy towards Respondent has continued unabated.

Respondent, whatever his strong conservative and legal advocacy and support of our 45th president, has been a member in good standing of this Bar continuously for nearly forty-one (41) years, and he should, particularly with regard to a disciplinary proceeding which is now twelve and one-half (12 ½) years old, be accorded serious consideration to have the record corrected.

Respondent respectfully requests a hearing on this important petition.

Dated: June 25, 2020

Respectfully submitted,

/s/ Larry Klayman
_____
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Respondent Pro Se and Of Record

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was filed electronically and served to all parties and counsel of record via the Court's e-service protocols on June 25, 2020

/s/ Larry Klayman
Larry Klayman, Esq.

EXHIBIT 1

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2 June 2014

Board on Professional Responsibility
430 E Street, NW
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Washington, DC 20001

RE: *In the matter of* Larry Klayman, Esq. (Bar Docket No. 2008-D048)

My name is Ronald D. Rotunda. I am the Doy & Dee Henley Chair and Distinguished Professor of Jurisprudence at Chapman University, The Dale E. Fowler School of Law, located in Orange, California, where I teach Professional Responsibility and Constitutional Law. I am a magna cum laude graduate of Harvard Law School, where I served as a member of the Harvard Law Review. I later clerked for Judge Walter R. Mansfield of the United States Court of Appeals for the Second Circuit.

During the course of my legal career, I have practiced law in Washington, D.C., and served as assistant majority counsel for the Senate Watergate Committee. I am the co-author of Problems and Materials on Professional Responsibility (Foundation Press, Westbury, N.Y., 12th ed. 2014), the most widely used legal ethics course book in the United States. It has been the most widely used since I coauthored the first edition in 1976. In addition, I have authored or coauthored several other books on legal ethics, including Rotunda & Dzienkowski, Legal Ethics: The Lawyer's Deskbook on Professional Responsibility (ABA/Thompson, 11th ed. 2013).

In addition to these books, I have written numerous articles on legal ethics, as well as several books and articles on Constitutional Law, as indicated in the attached resume. State and federal courts at every level have cited my treatises and articles over 1000 times. From 1980 to 1987, I was a member of the Multistate Professional Examination Committee of the National Conference of Bar Examiners.

I have reviewed the facts of the above referenced bar complaint against Larry Klayman. It is my expert opinion that in the present situation Mr. Klayman has not committed any offense that merits discipline. In fact, he, to the best of his ability, simply pursued an obligation that he knew that he owed to Sandra Cobas, Peter Paul, and Louise Benson.

Mr. Klayman, whose organization, Judicial Watch, was once engaged as attorneys for Paul (it never was engaged for Benson or Cobas), reasonably believed he had an ethical obligation to represent them**,** and chose to uphold his duty to these clients. District of Columbia Rule of Professional Conduct 1.3 states that, "(a) A lawyer shall represent a client zealously and diligently within the bounds of the law." Further, Rule 1.3(a) (comment 1) provides guidance on this issue and the duties of an attorney. "This duty requires the lawyer to pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and to take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor."

Recall *Maples v. Thomas*, 132 S.Ct. 912 (2012). In that case, two lawyers working in the firm of Sullivan & Cromwell entered an appearance for a client. These two associates worked pro bono and sought state habeas corpus for a defendant sentenced to death. A local Alabama lawyer moved their admission pro hac vice. Later, the two associates left the firm and their "new employment disabled them from representing" the defendant (one became a prosecutor and one moved abroad). Neither associate sought the trial court's leave to withdraw (which Alabama law required), nor found anyone else to assume the representation. Moreover, no other Sullivan & Cromwell lawyer entered an appearance, moved to substitute counsel, or otherwise notified the court of a need to change the defendant's representation. When Mr. Klayman left Judicial Watch, no other lawyer for Judicial Watch stepped up to the plate, because in fact Judicial Watch had taken actions adverse and harmful to Paul, Benson and Cobas. No lawyer stepped up to the plate in *Maples v. Thomas*.

The issue before the U.S. Supreme Court was whether the defendant showed sufficient "cause" to excuse his procedural default. Justice Ginsburg, for the Court, acknowledged that the usual rule is that even a negligent lawyer-agent binds the defendant. Here, however, the lawyers "abandoned" the client without notice and took actions which in fact harmed them thus severing the lawyer-client relationship and ending the agency relationship. This made the failure to appeal an "extraordinary circumstance" beyond the client's control and excused the procedural default. In the view of Mr. Klayman, he could not abandon the clients.

In applying these principles, it is reasonable and understandable that Mr. Klayman believed that had an ethical obligation, in accordance with perhaps the most important principle of this profession, to zealously and diligently represent his clients. More importantly, comment 7 observes that **"[n]eglect of client matters is a serious violation of the obligation of diligence."** Note that there is no credible claim that he used any confidence of Judicial Watch against Judicial Watch.

One should also consider Mr. Klayman's actions in light of the doctrine of necessity. We know that judges can decide cases even if they are otherwise disqualified if there is no other judge available to decide the case. For example, the Court of Claims applied the "rule of necessity" and held that, under that rule, its judges could hear the case involving their own salaries. Otherwise, no judge would be available to decide some important legal questions. The court then turned to the judges' substantive claim and denied it. *Atkins v. United States*, 556 F.2d 1028 (Ct.Cl.1977) (per curiam), cert. denied, 434 U.S. 1009 (1978). See also, *United States v. Will*, 449 U.S. 200 (1980). The *Will* Court explained: "The Rule of Necessity had its genesis at

least five-and-a-half centuries ago. Its earliest recorded invocation was in 1430, when it was held that the Chancellor of Oxford could act as judge of a case in which he was a party when there was no provision for appointment of another judge."

Faced with the dilemma of either representing Cobra, Paul, and Benson, or allowing them to lose their legal rights, Mr. Klayman sided with the rights of the clients, in accordance with Rule 1.3, and thus, justifiably, chose to represent them. Judicial Watch attempted, and succeeded, at disqualifying Mr. Klayman from the lawsuits because it knew no one else would be able to represent Cobas, Paul, and Benson, and that Judicial Watch would escape liability for the wrongs that they had caused. The trial judge did disqualify Mr. Klayman in representing Paul in a new case after Paul's previous lawyers withdrew representation because he could not pay them, but note that the trial judge did *not* refer this case to the disciplinary authorities for further discipline. It appears reasonable to believe that the trial judge imposed all the discipline (in the form of a disqualification) that he believed should be imposed. The situation involving these particular clients provided a unique set of circumstances, one that the D.C. Rules of Professional Conduct do not expressly take into account. Given this unprecedented situation, Mr. Klayman, out of necessity, attempted to correct the wrongs caused by Judicial Watch, so that he would not violate D.C. RPC Rule 1.3. Further establishing Mr. Klayman's ethical intentions is the fact that he represented these aggrieved individuals pro bono and paid court and other costs out of his own pocket simply to protect the rights of Cobas, Paul, and Benson.

There has been an unusual delay in instituting these proceedings against Mr. Klayman. If this were civil litigation, Bar Counsel's Petition would obviously not pass muster under the District of Columbia statute of limitations. The general statute of limitations for most civil causes of actions in the District of Columbia is three (3) years. D.C. Code § 12-301 *et seq*. "The purpose of statutes of limitation is 'to bring repose and to bar efforts to enforce stale claims as to which evidence might be lost or destroyed.'" *Medhin v. Hailu*, 26 A.3d 307, 313 n.7 (D.C. 2011) citing *Hobson v. District of Columbia*, 686 A.2d 194, 198 (D.C. 1996). "By precluding stale claims, statutes of limitations not only protect against 'major evidentiary problems which can seriously undermine the courts' ability to determine the facts,' but also protect[] a potential defendant's 'interest in security . . . and in planning for the future without the uncertainty inherent in potential liability,' and 'increase the likelihood that courts will resolve factual issues fairly and accurately.'" *Id*. Granted, the D.C. Rules of Professional Conduct do not expressly create a statute of limitations, the indisputable fact remains however that these proceedings — if they should have been brought at all — should have been brought years ago.

That brings up the problem of laches. The doctrine of laches bars untimely claims not otherwise barred by the statute of limitations. As held by the District of Columbia Court of Appeals, laches is the principle that "equity will not aid a plaintiff whose unexcused delay, if the suit were allowed, would be prejudicial to the defendant. It was developed to promote diligence and accordingly to prevent the enforcement of stale claims." *Beins v. District of Columbia Bd. of Zoning Adjustment*, 572 A.2d 122, 126 (D.C. 1990). Laches applies to bar a claim when a plaintiff has unreasonably delayed in asserting a claim and there was undue prejudice to the defendant as a result of the delay. *Jeanblanc v. Oliver Carr Co.*, 1995 U.S. App. LEXIS 19995, *9 (D.C. Cir. June 21, 1995). Among the inequities that the doctrine of laches protects against is the loss of or difficulty in resurrecting pertinent evidence. *Id*.

Note that Mr. Klayman left Judicial Watch on September 19, 2003. He filed his appearance on behalf of Ms. Cobas on August 7, 2006 — long after he left Judicial Watch. There is no claim that he violated any confidences of Judicial Watch or that he earlier represented Judicial Watch against Ms. Cobas. This Bar Complaint was filed on May 1, 2014. The delay in filing the complaint was nearly 8 years.

The conduct alleged by Bar Counsel occurred between seven and eight years ago. Given the substantial delay in bringing the present Petition before the Board, Mr. Klayman's ability to defend this case has been detrimentally prejudiced, particularly as recollection and memory fade over the course of approximately seven to eight years and witnesses and the individuals involved may be unavailable in support of Mr. Klayman's defense. In Paul's case, for instance, he is in federal prison in Texas. Ms. Cobas has health problems and Ms. Benson is now an 83-year-old woman. The Bar should not use this unique factual situation to discipline Mr. Klayman given the equitable doctrine of laches. Such discipline, if the courts uphold it, can ruin his career.

This Petition also raises issues regarding the application of Mr. Klayman's Fifth Amendment due process rights. Lawyers in attorney discipline cases are entitled to procedural due process. In *Ruffalo*, the respondent appealed his disbarment after records of his employments were brought up into his disciplinary proceedings at a late stage in the proceedings without giving him the opportunity to respond. In reversing, the U.S. Supreme Court held that the attorney's lack of notice that his full employment record would be used in the proceedings caused a violation of procedural due process that "would never pass muster in any normal civil or criminal litigation." *In the Matter of John Ruffalo, Jr*., 390 U.S. 544, 550 (1968).

In *Kelson*, the Supreme Court of California similarly held that it was a violation of procedural due process for the State Bar of California to amend its charges on the basis of Mr. Kelson's testimony without having given Mr. Kelson notice of the charge and an opportunity to respond. *Kelson v*. *State Bar,* 17 Cal. 3d. 1, 6 (Cal. 1976). *Kelson* is directly on point. Judicial Watch submitted boxes full of voluminous documents to the Bar Counsel's office in secret, none of which were ever served to Mr. Klayman until the Petition was filed and then served. It appears that Judicial Watch and Mr. Klayman have had a parting of the ways that has not been amicable. One can understand why, even after all these years, a former employer who is very upset might wish to use the discipline process to punish a former employee, but that does not mean that the discipline authorities should aid and abet (even unintentionally) what appears to be a vendetta by one private group against its former lawyer. Discipline, after all, exists to protect future clients and the public; it does not exist for one party to wreak punishment against another.

Further, these alleged ethical violations have already been dealt with by the Honorable Royce C. Lamberth in his Memorandum Opinion and Order in *Paul v*. *Judicial Watch, et al*., No. 1:07-CV-00279 (D.D.C. filed Feb. 5, 2007). In his Memorandum Opinion, Judge Lamberth specifically addressed the issue of D.C. Bar Rule 1.9 in regard to disqualifying Mr. Klayman from continuing to represent Paul in the lawsuit. Judge Lamberth, in his ruling, found that "A survey of relevant case law in this and other circuits reveals some ambiguity with respect to the standard for disqualification in the face of a violation of Rule 1.9 (or its equivalent)." *Id*. at 6. Indeed, given the circumstances, and the harm that would be caused to Paul, it was ambiguous whether Rule 1.9 required Mr. Klayman's disqualification. Judge Lamberth took "note of Paul's

argument that he will suffer prejudice if Mr. Klayman is disqualified." *Id*. at 14. Judge Lamberth emphasized that "[t]he essence of the hardship that Paul asserts will result from disqualification of Mr. Klayman is an inability to obtain alternate counsel for lack of financial resources" and ultimately apologetically found that "[t]he Court is not unsympathetic to this concern." *Id* at 14.

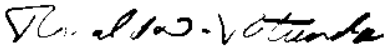
Immediately following Judge Lamberth's order, Mr. Klayman ceased all legal representation of Mr. Paul. No harm was caused by the limited and short-term representation that Mr. Klayman had provided. In fact, the harm was only done when Judicial Watch ceased representation of Paul, who as a result has been convicted of the alleged crimes and has since been incarcerated. Judge Lamberth did not sanction Mr. Klayman, or even report his actions to the Bar Counsel or the Board. Judge Lamberth recognized that the D.C. RPC was not clear when disqualification was necessary under Rule 1.9 and thus took no further action.

Given the delay in instituting these proceedings, it appears that Judicial Watch has targeted Mr. Klayman for selective prosecution. Seldom in the history of the District of Columbia Bar has someone been the subject of such an investigation for such a technical violation. To prevail on a defense of selective prosecution, one must simply prove that he was singled out for prosecution among others similarly situated and that the decision to prosecute was improperly motivated. *See, e.g*. *United States v*. *Mangieri*, 694 F.2d 1270, 1273 (D.C. Cir. 1982). Here, Mr. Klayman is being investigated, and even charged, with an alleged ethical violation that otherwise would have been resolved as a result of Judge's Lamberth's decision to disqualify Mr. Klayman from the case.

For the foregoing reasons, it is my expert opinion that this bar complaint should not be pursued. Mr. Klayman, faced with what Judge Lamberth concluded was an "ambiguous" rule, understood that Mr. Klayman did not take on a case for personal profit but simply to protect the rights of those who could otherwise not pursue justice in the court system. Further justifying dismissal of this bar complaint is the unreasonably delay by the Office of Bar Counsel in bringing these allegations against Mr. Klayman. Mr. Klayman's defense of these alleged ethical violations has been severely prejudiced by the length of time that has passed since the events leading up to the bar complaint took place.

In sum, Mr. Klayman should not be disciplined. He did what he believed he had an ethical obligation to do by protecting his clients, at his expense.

Sincerely,



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Experience:

Since August, 2008	DOY & DEE HENLEY CHAIR AND DISTINGUISHED PROFESSOR OF JURISPRUDENCE, CHAPMAN UNIVERSITY
June 17, 2009 – Jan. 31, 2013	COMMISSIONER, Fair Political Practices Commission a regulatory body of the State of California,
2006- August 2008	UNIVERSITY PROFESSOR AND PROFESSOR OF LAW, George Mason University
2002-2006	THE GEORGE MASON UNIVERSITY FOUNDATION PROFESSOR OF LAW, George Mason University School of Law
Nov. to Dec. 2002	Visiting Scholar, Katholieke Universiteit Leuven, Faculty of Law, Leuven, Belgium
May 2004	Visiting Lecturer, The Institute for Law and Economics, Institut für Recht und Ökonomik, The University of Hamburg, Germany
June 2004-May 2005	Special Counsel to Department of Defense, The Pentagon
December 2005	Visiting Lecturer, The Institute for Law and Economics, Institut für Recht und Ökonomik, The University of Hamburg, Germany
1993 - 2002	THE ALBERT E. JENNER, JR. PROFESSOR OF LAW, University of Illinois College of Law
Since 2002	THE ALBERT E. JENNER, JR. PROFESSOR OF LAW, EMERITUS, University of Illinois College of Law
Fall, 2001	Visiting Professor, George Mason University School of Law

Spring & Fall 2000	Cato Institute, Washington, D.C.; Senior Fellow in Constitutional Studies [Senior Fellow in Constitutional Studies, 2001-2009]
Spring, 1999	Visiting Professor, holding the JOHN S. STONE ENDOWED CHAIR OF LAW, University of Alabama School of Law
August 1980 - 1992	Professor of Law, University of Illinois College of Law
March 1986	Fulbright Professor, Maracaibo and Caracas, Venezuela, under the auspices of the Embassy of the United States and the Catholic University Andres Bello
January – June, 1981	Fulbright Research Scholar, Italy
Spring 1981	Visiting Professor of Law, European University Institute, Florence, Italy
August 1977 – August, 1980	Associate Professor of Law, University of Illinois College of Law
August 1974 – August 1977	Assistant Professor of Law, University of Illinois College of Law
April 1973 - July 1974	Assistant Counsel, U.S. Senate Select Committee on Presidential Campaign Activities
July 1971 - April, 1973	Associate, Wilmer, Cutler & Pickering Washington, DC
August 1970 – July 1971	Law Clerk to Judge Walter R. Mansfield, Second Circuit, New York, N.Y.

Education:

Legal: HARVARD LAW SCHOOL (1967- 1970)
Harvard Law Review, volumes 82 & 83
J.D., 1970 Magna Cum Laude

College: HARVARD COLLEGE (1963- 1967)
A.B., 1967 Magna Cum Laude in Government

Member:

American Law Institute (since 1977); Life Fellow of the American Bar Foundation (since 1989); Life Fellow of the Illinois Bar Foundation (since 1991); The Board of Editors, The Corporation Law Review (1978-1985); New York Bar (since 1971); Washington, D.C. Bar and D.C. District Court Bar (since 1971); Illinois Bar (since 1975); 2nd Circuit Bar (since 1971); Central District of Illinois (since 1990); 7th Circuit (since 1990); U.S. Supreme Court Bar (since 1974); 4th Circuit, since 2009. Member: American Bar Association, Washington, D.C. Bar Association, Illinois State Bar

Association, Seventh Circuit Bar Association; The Multistate Professional Responsibility Examination Committee of the National Conference of Bar Examiners (1980-1987); AALS, Section on Professional Responsibility, Chairman Elect (1984-85), Chairman (1985-86); Who's Who In America (since 44th Ed.) and various other Who's Who; American Lawyer Media, L.P., National Board of Contributors (1990-2000).

Scholarly Influence and Honors:

Symposium, *Interpreting Legal Citations*, 29 JOURNAL OF LEGAL STUDIES (part 2) (U. Chicago Press, Jan. 2000), sought to determine the influence, productivity, and reputation of law professors. Under various measures, Professor Rotunda scored among the highest in the nation. *E.g.*, scholarly impact, most-cited law faculty in the United States, 17th (p. 470); reputation of judges, legal scholars, etc. on Internet, 34th (p. 331); scholar's non-scholarly reputation, 27th (p. 334); most influential legal treatises since 1978, 7th (p. 405).

In May 2000, *American Law Media*, publisher of *The American Lawyer*, the *National Law Journal*, and the *Legal Times,* picked Professor Rotunda as one of the ten most influential Illinois Lawyers. He was the only academic on the list. He was rated, in 2014, as one of "The 30 Most Influential Constitutional Law Professors" in the United States.

- 2012, Honored with, THE CHAPMAN UNIVERSITY EXCELLENCE IN SCHOLARLY/CREATIVE WORK AWARD, 2011-2012.
- Appointed UNIVERSITY PROFESSOR, 2006, George Mason University; Appointed 2008, DOY & DEE HENLEY CHAIR AND DISTINGUISHED PROFESSOR OF JURISPRUDENCE, Chapman University.
- The 2002-2003 *New Educational Quality Ranking* of U.S. Law Schools (EQR) ranks Professor Rotunda as the eleventh most cited of all law faculty in the United States. *See* http://www.leiterrankings.com/faculty/2002faculty_impact_cites.shtml
- Selected UNIVERSITY SCHOLAR for 1996-1999, University of Illinois.
- 1989, Ross and Helen Workman Research Award.
- 1984, David C. Baum Memorial Research Award.
- 1984, National Institute for Dispute Resolution Award.
- Fall, 1980, appointed Associate, in the Center for Advanced Study, University of Illinois.

LIST OF PUBLICATIONS:

BOOKS:

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TREATISE ON CONSTITUTIONAL LAW: SUBSTANCE AND PROCEDURE (West Publishing Co., St. Paul, Minnesota, 1986) (*three volume treatise*) (with John E. Nowak and J. Nelson Young).

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Other Activities:

March-April, 1984, Expert Witness for State of Nebraska on Legal Ethics at the Impeachment Trial of Nebraska Attorney General Paul L. Douglas (tried before the State Supreme Court; the first impeachment trial in nearly a century).

July 1985, Assistant Chief Counsel, State of Alaska, Senate Impeachment Inquiry of Governor William Sheffield, (presented before the Alaskan Senate).

Speaker at various ABA sponsored conferences on Legal Ethics; Speaker at AALS workshop on Legal Ethics; Speaker on ABA videotape series, "Dilemmas in Legal Ethics."

Interviewed at various times on Radio and Television shows, such as MacNeil/Lehrer News Hour, Firing Line, CNN News, CNN Burden of Proof, ABC's Nightline, National Public Radio, News Hour with Jim Lehrer, Fox News, etc.

1985--1986, Reporter for Illinois Judicial Conference, Committee on Judicial Ethics.

1981-1986, Radio commentator (weekly comments on legal issues in the news), WILL-AM Public Radio.

1986-87, Reporter of Illinois State Bar Association Committee on Professionalism.

1987-2000, Member of Consultant Group of American Law Institute's RESTATEMENT OF THE LAW GOVERNING LAWYERS.

1986-1994, Consultant, Administrative Conference of the United States (on various issues relating to conflicts of interest and legal ethics).

1989-1992, Member, Bar Admissions Committee of the Association of American Law Schools.

1990-1991, Member, Joint Illinois State Bar Association & Chicago Bar Association Committee on Professional Conduct.

1991-1997, Member, American Bar Association Standing Committee on Professional Discipline.

CHAIR, Subcommittee on Model Rules Review (1992-1997). [The subcommittee that I chaired drafted the MODEL RULES FOR LAWYER DISCIPLINARY ENFORCEMENT that the ABA House of Delegates approved on August 11, 1993.]

1992, Member, Illinois State Bar Association [ISBA] Special Committee on Professionalism; CHAIR, Subcommittee on Celebration of the Legal Profession.

Spring 1993, Constitutional Law Adviser, SUPREME NATIONAL COUNCIL OF CAMBODIA. I traveled to Cambodia and worked with officials of UNTAC (the United Nations Transitional Authority in Cambodia) and Cambodian political leaders, who were

charged with drafting a new Constitution to govern that nation after the United Nations troop withdrawal.

1994-1997, LIAISON, ABA Standing Committee on Ethics and Professional Responsibility.

1994-1996, Member, Illinois State Bar Association [ISBA] Standing Committee on the Attorney Registration and Disciplinary Commission.

Winter 1996, Constitutional Law Adviser, SUPREME CONSTITUTIONAL COURT OF MOLDOVA.

Under the auspices of the United States Agency for International Development, I consulted with the six-member Supreme Constitutional Court of Moldova in connection with that Court's efforts to create an independent judiciary. The Court came into existence on January 1, 1996.

Spring 1996, Consultant, CHAMBER OF ADVOCATES, of the CZECH REPUBLIC.

Under the auspices of the United States Agency for International Development, I spent the month of May 1996, in Prague, drafting Rules of Professional Responsibility for all lawyers in the Czech Republic. I also drafted the first Bar Examination on Professional Responsibility, and consulted with the Czech Supreme Court in connection with the Court's proposed Rules of Judicial Ethics and the efforts of the Court to create an independent judiciary.

Consulted with (and traveled to) various counties on constitutional and judicial issues (*e.g.*, Romania, Moldova, Ukraine, Cambodia) in connection with their move to democracy.

1997-1999, Special Counsel, Office of Independent Counsel (Whitewater Investigation).

Lecturer on issues relating to Constitutional Law, Federalism, Nation-Building, and the Legal Profession, throughout the United States as well as Canada, Cambodia, Czech Republic, England, Italy, Mexico, Moldova, Romania, Scotland, Turkey, Ukraine, and Venezuela.

1998-2002, Member, ADVISORY COUNCIL TO ETHICS 2000, the ABA Commission considering revisions to the ABA Model Rules of Professional Conduct.

2000-2002, Member, ADVISORY BOARD TO THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS (This Board was charged with removing any remaining vestiges of organized crime to influence the Union, its officers, or its members.) This Board was part of "Project RISE" ("Respect, Integrity, Strength, Ethics").

2001-2008, Member, Editorial Board, CATO SUPREME COURT REVIEW.

2005-2006, Member of the Task Force on Judicial Functions of the Commission on Virginia Courts in the 21st Century: To Benefit All, to Exclude None

July, 2007, Riga, Latvia, International Judicial Conference hosted by the United States Embassy, the Supreme Court of Latvia, and the Latvian Ministry of Justice. I was one of the main speakers along with Justice Samuel Alito, the President of Latvia, the Prime Minister of Latvia, the Chief Justice of Latvia, and the Minister of Justice of Latvia

Since 1994, Member, Publications Board of the ABA Center for Professional Responsibility; vice chair, 1997-2001.

Since 1996, Member, Executive Committee of the Professional Responsibility, Legal Ethics & Legal Education Practice Group of the Federalist Society; Chair-elect, 1999; Chair, 2000

Since 2003, Member, Advisory Board, the Center for Judicial Process, an interdisciplinary research center (an interdisciplinary research center connected to Albany Law School studying courts and judges)

Since 2012, *Distinguished International Research Fellow* at the World Engagement Institute, a non-profit, multidisciplinary and academically-based non-governmental organization with the mission to facilitate professional global engagement for international development and poverty reduction, http://www.weinstitute.org/fellows.html

Since 2014, *Associate Editor* of the Editorial Board, THE INTERNATIONAL JOURNAL OF SUSTAINABLE HUMAN SECURITY (IJSHS), a peer-reviewed publication of the World Engagement Institute (WEI)

Since 2014, Member, Board of Directors of the Harvard Law School Association of Orange County

Since 2014, Member, Editorial Board of THE JOURNAL OF LEGAL EDUCATION (2014 to 2016).

EXHIBIT 2

UNIFORM CERTIFICATE OF ATTENDANCE

This certificate should be filed with the appropriate MCLE Board(s) or Commission(s) within 30 days of activity

Sponsor: **District of Columbia Bar**

Activity Title: **Identifying and Dealing with Ethical Conflicts of Interest**

Date: **10/12/2017**

Location: **On-Demand/Webcast**

State Activity Number: (for those states designating program numbers)

This program is eligible for a total of **2.0** CLE credit hours based on a 60-minute hour

2.0 CLE credit hours based on a 50-minute hour

Of this total **0.0** CLE credit hour(s) of this program is/are devoted to instruction in ethics/professionalism *(Based on 60-Min.Hr.)*

0.0 CLE credit hour(s) of this program is/are devoted to instruction in ethics/professionalism *(Based on 50-Min.Hr.)*

Note: Introductory remarks, keynote addresses, business meetings, breaks, receptions, etc. are not to be included in the computation of credit.

TO BE COMPLETED BY ATTORNEY

By signing below, I certify that I attended the activity described above and am entitled to claim 4.0 CLE credit hours, including 4.0 Ethics credits.

Larry Klayman
Attorney Name (Print)

D.C. Bar No. 334581
Membership, Registration or Supreme Court Number

Attorney Signature

6/25/20
Date

District of Columbia
State where credits are to be registered

Note: Complete a certificate for each state in which you are required to file. Rules for CLE in some states require the provider to file attendance with the regulator as a service to lawyers. Please confirm jurisdictional reporting requirements with the provider or state regulator.

Acknowledged By:
Naomi McMillen
Sponsor Representative

UNIFORM CERTIFICATE OF ATTENDANCE

This certificate should be filed with the appropriate MCLE Board(s) or Commission(s) within 30 days of activity

Sponsor: **District of Columbia Bar**

Activity Title: **Ethics and Pro Bono: Remaining Ethical While Doing Good**

Date: **7/9/2019**

Location: **Washington, D.C. / On-Demand**

State Activity Number:
(for those states designating program numbers)

This program is eligible for a total of **2.0** CLE credit hours based on a 60-minute hour

2.0 CLE credit hours based on a 50-minute hour

Of this total **2.0** CLE credit hour(s) of this program is/are devoted to instruction in ethics/professionalism *(Based on 60-Min Hr.)*

2.0 CLE credit hour(s) of this program is/are devoted to instruction in ethics/professionalism *(Based on 50-Min Hr.)*

Note: Introductory remarks, keynote addresses, business meetings, breaks, receptions, etc. are not to be included in the computation of credit.

TO BE COMPLETED BY ATTORNEY

By signing below, I certify that I attended the activity described above and am entitled to claim 2 CLE credit hours, including 2 Ethics credits.

Larry Elliot Klayman — Attorney Name (Print)

FL Bar # 246220 — **Membership, Registration or Supreme Court Number**

Attorney Signature

9/21/19 — Date

Florida — State where credits are to be registered

Note: Complete a certificate for each state in which you are required to file. Rules for CLE in some states require the provider to file attendance with the regulator as a service to lawyers. Please confirm jurisdictional reporting requirements with the provider or state regulator.

Acknowledged By:

Theresa Inniss

Sponsor Representative

Gmail

Dina James <daj142182@gmail.com>

PA CLE CERTIFICATE #41440-556500-473

1 message

ACCESS MCLE <email@accessmcle.com> Mon, Jul 10, 2017 at 10:55 AM
To: daj142182@gmail.com

CERTIFICATE OF COMPLETION FOR PENNSYLVANIA CLE

PROVIDER NAME: ACCESS MCLE, LLC
PROVIDER INFO: PA CLE BOARD ACCREDITED PROVIDER #9310

Access MCLE Activity #473 -
ETHICS: Representation from Start to Finish

COMPLETION DATE: 7/10/2017 1:55p EST
STUDY FORMAT: Distance Learning (Online)

CLE CREDIT: 1 Hour Ethics

Attorney Name: KLAYMAN, LARRY
PA Lawyer ID: 54628

By electronic signature below, I have certified that I completed the activity described above and am entitled to claim the amount of CLE credits listed.

Signature: LARRY KLAYMAN Date: 7/10/2017
~~~~~~~~~~~~~~~~ ~~~~~~~~~~

REMINDER TO PENNSYLVANIA ATTORNEYS:
Within 30 days, Access MCLE will automatically report to the Supreme Court of Pennsylvania CLE Board your completion of this course.

You may verify completed CLE credits online at: https://www.pacle.org/crc/MyPACLE.asp

For additional information please contact your CERTIFYING PROVIDER:

ACCESS MCLE, LLC
5150 Fair Oaks Blvd, Ste 101-161
Carmichael, CA 95608
Tel: (916) 550-6253
Fax: (916) 550-6888
www.accessmcle.com

This message was sent to daj142182@gmail.com
~~~~~~~~~~~~~~~~

Gmail

Dina James <daj142182@gmail.com>

PA CLE CERTIFICATE #41440-556438-552

1 message

ACCESS MCLE <email@accessmcle.com> Fri, Jul 7, 2017 at 1:24 PM
To: daj142182@gmail.com

CERTIFICATE OF COMPLETION FOR PENNSYLVANIA CLE

PROVIDER NAME: ACCESS MCLE, LLC
PROVIDER INFO: PA CLE BOARD ACCREDITED PROVIDER #9310

Access MCLE Activity #552 -
ETHICS: Rules Governing Client Relationships

COMPLETION DATE: 7/7/2017 4:24p EST
STUDY FORMAT: Distance Learning (Online)

CLE CREDIT: 1 Hour Ethics

Attorney Name: KLAYMAN, LARRY
PA Lawyer ID: 54628

By electronic signature below, I have certified that I completed the activity described above and am entitled to claim the amount of CLE credits listed.

Signature: LARRY KLAYMAN Date: 7/7/2017
~~~~~~~~~~~~~~~~ ~~~~~~~~~~

REMINDER TO PENNSYLVANIA ATTORNEYS:
Within 30 days, Access MCLE will automatically report to the Supreme Court of Pennsylvania CLE Board your completion of this course.

You may verify completed CLE credits online at: https://www.pacle.org/crc/MyPACLE.asp

For additional information please contact your CERTIFYING PROVIDER:

ACCESS MCLE, LLC
5150 Fair Oaks Blvd, Ste 101-161
Carmichael, CA 95608
Tel: (916) 550-6253
Fax: (916) 550-6888
www.accessmcle.com

This message was sent to daj142182@gmail.com
~~~~~~~~~~~~~~~~

Gmail

Dina James <daj142182@gmail.com>

PA CLE CERTIFICATE #41440-556286-553

1 message

ACCESS MCLE <email@accessmcle.com> Thu, Jul 6, 2017 at 5:13 PM
To: daj142182@gmail.com

CERTIFICATE OF COMPLETION FOR PENNSYLVANIA CLE

PROVIDER NAME: ACCESS MCLE, LLC
PROVIDER INFO: PA CLE BOARD ACCREDITED PROVIDER #9310

Access MCLE Activity #553 -
ETHICS: Conflicts of Interest for the Business Attorney

COMPLETION DATE: 7/6/2017 8:12p EST
STUDY FORMAT: Distance Learning (Online)

CLE CREDIT: 1 Hour Ethics

Attorney Name: KLAYMAN, LARRY
PA Lawyer ID: 54628

By electronic signature below, I have certified that I completed the activity described above and am entitled to claim the amount of CLE credits listed.

Signature: LARRY KLAYMAN Date: 7/6/2017
~~~~~~~~~~~~~~~~ ~~~~~~~~~~

REMINDER TO PENNSYLVANIA ATTORNEYS:
Within 30 days, Access MCLE will automatically report to the Supreme Court of Pennsylvania CLE Board your completion of this course.

You may verify completed CLE credits online at: https://www.pacle.org/crc/MyPACLE.asp

For additional information please contact your CERTIFYING PROVIDER:

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Carmichael, CA 95608
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Fax: (916) 550-6888
www.accessmcle.com

This message was sent to daj142182@gmail.com
~~~~~~~~~~~~~~~~

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 13-20610-CIV-ALTONAGA

LARRY KLAYMAN,

Plaintiff,

v.

JUDICIAL WATCH, INC.,

Defendant.
_____/

Verdict Form

We, the jury, unanimously find as follows:

1. Do you find from a preponderance of the evidence that Plaintiff Larry Klayman was defamed by Defendant Judicial Watch?

Yes ✓ No _____

(If your answer is "yes," proceed to the next question. If the answer is "no," sign the verdict form.)

2. Do you find from a preponderance of the evidence that Plaintiff Larry Klayman should be awarded compensatory damages against Defendant Judicial Watch?

Yes ✓ No _____

If your answer is "Yes,"

in what amount: $ 156,000.00 .

(If your answer is "yes," skip question 3 and proceed to question 4. If your answer is "no," proceed to question 3.).

3. Do you find from a preponderance of the evidence that Plaintiff Larry Klayman should be awarded nominal damages against Defendant Judicial Watch?

Yes _____ No ✓

If your answer is "Yes,"

in what amount: $ N/A .

(Proceed to question 4.).

4. Under the circumstances of this case, state whether you find by clear and convincing evidence that punitive damages are warranted against Defendant Judicial Watch:

Yes ✓ No _____

If your answer is "Yes,"

in what amount: $ 25,000.00 .

So say we all this 10 day of June, 2014.

Foreperson

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 13-20610-CIV-ALTONAGA

LARRY KLAYMAN,

Plaintiff,

v.

JUDICIAL WATCH, INC.,

Defendant.
_____/

FINAL JUDGMENT

THIS CAUSE came for trial before the Court and a jury, United States District Judge, Cecilia M. Altonaga, presiding, and the issues having been duly tried and the jury having duly rendered its verdict on June 10, 2014, it is

ORDERED AND ADJUDGED that Judgment is entered in favor of Plaintiff, Larry Klayman, and against Defendant, Judicial Watch Inc., in the amount of **$156,000.00** for compensatory damages and **$25,000.00** for punitive damages, totaling **$181,000.00**, for which sum let execution issue. Requests for costs and attorneys' fees shall not be submitted until after any post-trial motions are decided or an appeal is concluded, whichever occurs later. This judgment shall bear interest at the rate as prescribed by 28 U.S.C. section 1961, and shall be enforceable as prescribed by 28 U.S.C. sections 2001–2007, 28 U.S.C. sections 3001–3308, and Federal Rule of Civil Procedure 69(a). The Clerk shall mark this case closed.

DONE AND ORDERED in Chambers at Miami, Florida, this 11th day of June, 2014.

Cecilia M. Altonaga

CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record

EXHIBIT 4

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Transcript of Thomas J. Fitton

Date: June 6, 2019
Case: Klayman -v- Fitton

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1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

LARRY KLAYMAN, *
Plaintiff, *
vs. * Civil Action
THOMAS FITTON, * No. 1:19-cv-20544
Defendant. *

Videotaped Deposition of THOMAS J. FITTON
Washington, D.C.
Thursday, June 6, 2019
3:06 p.m.

Job No.: 247643
Pages 1 - 92
Reported by: Vicki L. Forman

2

Videotaped Deposition of THOMAS J. FITTON, held at the offices of:

Planet Depos
Suite 950
1100 Connecticut Avenue, Northwest
Washington, D.C. 20036
(888) 433-3767

Pursuant to agreement, before Vicki L. Forman, Court Reporter and Notary Public in and for the District of Columbia.

3

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF PRO SE:
LARRY KLAYMAN, ESQUIRE
Klayman Law Group, P.A.
Suite 345
2020 Pennsylvania Avenue, Northwest
Washington, D.C. 20006
(310) 595-8088

ON BEHALF OF THE DEFENDANT:
RICHARD W. DRISCOLL, ESQUIRE
Driscoll & Seltzer
Suite 610
300 North Washington Street
Alexandria, Virginia 22314
(703) 822-5001

4

ON BEHALF OF THE DEFENDANT:
KATIE M. MERWIN, ESQUIRE
Cole, Scott & Kissane, P.A.
Suite 120
222 Lakeview Avenue
West Palm Beach, Florida 33401
(561) 383-9206
(Present via Telephone.)

ALSO PRESENT: Joannis Arsenis, Videographer

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MR. KLAYMAN: Certify it.
Q So as President of Judicial Watch you would have known for sure that this Complaint had been filed, correct?
MR. DRISCOLL: Objection to form.
A Well, the press release indicates it was filed and I recall we sued about the raid, yes.
Q And you gave interviews about suing in the raid, correct, in the media?
A I don't remember.
Q Turn to the last page, page five.
The Complaint is signed by James F Peterson, correct?
A His name is on the last page of the Complaint as a signatory.
Q He is an attorney at Judicial Watch, correct?
A Yes.
Q Now, Mr. Peterson had contact with Roger Stone over the issue of the raid on his house, did he not?
A Not that I'm aware of.
MR. DRISCOLL: Objection to form.
Q You're saying you don't know one way or the other?

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A I don't believe he has. I said I would know if he had.
Q How would you know if you couldn't even identify the Complaint?
A Another abusive harassing question.
MR. DRISCOLL: It's a foundation question. You can go ahead and answer it.
How would you know if he had contacted Roger Stone?
MR. KLAYMAN: Or if Roger Stone contacted him.
A Is it privileged?
MR. DRISCOLL: That's an interesting question. The fact of the communication would not be. The contents of it would be.
A How I would know is my question of whether it's privileged or not.
MR. DRISCOLL: No, I'm going to allow you to answer that one.
A How I would know about what my attorneys are doing or Judicial Watch's attorneys are doing?
MR. DRISCOLL: Yeah, and you're not disclosing a communication. You're just describing a process.
A Typically that type of communication would have been disclosed to me.
Q But you don't know for sure that Mr. Peterson didn't have contact with Roger Stone?
MR. DRISCOLL: Objection to form.
A I'm confident there was no such contact.
Q You have told Mr. Peterson in the past, have you not, that I was ousted from Judicial Watch because of a sexual harassment complaint?
MR. DRISCOLL: Objection to form.
Mr. Peterson is an in-house counsel and I'm going to direct the witness not to answer. That's an attorney-client privilege.
MR. KLAYMAN: Certify it.
Q So you don't know whether or not Mr. Peterson repeating what you had told him then republished that to Roger Stone?
MR. DRISCOLL: The communications between an in-house counsel and the President of the corporation relating to legal advice and assistance are privileged. He can't answer the question about the contents of the communication or derivative questions that would disclose the content of the communication.
MR. KLAYMAN: That's the crux of the lawsuit. That does not apply in this context.

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MR. DRISCOLL: That doesn't waive the privilege.
Q Are you saying that you never told anyone at Judicial Watch that I was ousted because of a sexual harassment complaint?
MR. DRISCOLL: Anyone other than the attorneys?
MR. KLAYMAN: Anyone.
MR. DRISCOLL: No, I can't allow him to answer that question.
Q Are you saying that you never told anyone that I was -- regardless -- let's take attorneys out of it.
Have you ever -- you have told other people in addition to -- strike that.
You have told other people excluding attorneys that I was ousted from Judicial Watch because of a sexual harassment complaint?
A You have to ask the question again.
MR. KLAYMAN: Read it back, please.
A Please.
MR. KLAYMAN: Let me rephrase it.
Q I'm taking attorneys out of this question. I'm saying you have told others who aren't attorneys over the course of the last 16 years

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since I left Judicial Watch that I was ousted because of a sexual harassment complaint?
A No, because that's not true. You weren't ousted as a result of a sexual harassment complaint.
Q After I sued you in this particular case has anyone -- have you or anyone at Judicial Watch or your counsel tried to contact Roger Stone?
MR. DRISCOLL: Objection to form. The question invades the attorney-client privilege and the attorney work product. I direct the witness not to answer.
MR. KLAYMAN: Certify it.
Madam court reporter, have a page in the front where you have all the certified questions and where you can find them to make it easy for the Magistrate Judge. Thank you.
Q Now, I turn your attention back to your affidavit which is --
A Exhibit 3.
Q Exhibit 3. Turn your attention to paragraph seven where it says "I have no recollection of ever having any communication with Roger Stone," do you see that?
A Uh-huh.

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Q Now, it doesn't say you didn't have a communication with Roger Stone. It just says that you have no recollection of having one, correct?
A That's correct.
Q Do you remember during the Clinton years that witnesses would always come in and say we have no specific recollection and we would contest that?
MR. DRISCOLL: Just ask your question, Larry.
Q So you can't say categorically that you haven't had communications with Roger Stone? You're just saying you don't have a recollection of ever having it, correct?
A I think the statement speaks for itself.
Q You could have said I have never communicated with Roger Stone, correct, if that's what you were trying to say, that you never had any contact?
A The statement speaks for itself.
Q Then you state in the next sentence "I have never published, uttered or implied to Roger Stone that Klayman was the subject of a sexual harassment complaint during his employment by Judicial Watch or that his resignation from

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Judicial Watch was motivated by an employee's sexual harassment complaint," do you see that?
A Yeah.
Q Again, that statement does not say that you never spoke with Roger Stone, just that you've never published that particular issue, correct?
A It says what it says.
Q And then it states "Any statement by Roger Stone regarding Klayman was made without my knowledge or information and therefore I did not intend and could not intend to harm Klayman or his reputation," do you see that?
A Yes.
Q Now, you're not saying in that statement that you didn't communicate with Roger Stone. You're saying that you didn't know that he was going to republish anything about me, correct?
MR. DRISCOLL: Objection to form. The document speaks for itself.
A The document speaks for itself.
Q If you don't want to explain it that's fine.
A You're mischaracterizing it.
Q I do agree. It speaks for itself and there's a lot of loopholes in it.

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MR. DRISCOLL: Why don't you just ask him the question. Did he ever --
MR. KLAYMAN: I will ask the questions that I want to ask, Mr. --
MR. DRISCOLL: All right.
Q I want to turn to paragraph eight.
Do you see the statements in the last sentence of paragraph eight where it says "To support his claim Judicial Watch submitted evidence demonstrating that Klayman was forced to resign due to inappropriate conduct" and you list three examples of your alleged inappropriate conduct, do you see that?
A Yeah.
Q Now, you have in the last 16 years told many people, and I'm excluding any attorneys, exactly what is written in this affidavit and which you swore to under oath?
MR. DRISCOLL: I'm going to object to the question and direct the witness not to answer that question to the extent it's related to the other lawsuit that is currently pending in the U.S. District Court for the District of Columbia, Case Number 06-cv-670.
MR. KLAYMAN: That's not a basis to tell